

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KELLY TOYS HOLDINGS, LLC,

Plaintiff

v.

WWW.AXOLOTLSQUISHMALLOW.COM,
WWW.BIGFOOTSQUISHMALLOW.COM,
WWW.COWSQUISHMALLOW.COM,
WWW.HALLOWEENSQUISHMALLOWS.SH
OP,
WWW.MUSHROOMSQUISHMALLOW.COM,
and WWW.OFFICIALSQUISHMALLOW.COM,

Defendants.

CIVIL ACTION NO. 23-CV-1382 (AKH)

**ORDER TO SET ASIDE CLERK'S
CERTIFICATES OF DEFAULT**

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ALVIN K. HELLERSTEIN, District Judge:

Defendant www.bigfootsquishmallow.com moves to set aside the Clerk's Certificate of Default entered in this action. (ECF No. 40.) For the reasons set forth below, Defendant's motion is GRANTED.

BACKGROUND

Plaintiff filed their complaint on March 6, 2023. (ECF No. 6.) Defendant's failed to respond or otherwise move with respect to the Complaint. On April 24, 2023, the Clerk of Court issued a Certificate of Default against Defendants www.bigfootsquishmallow.com. (ECF No. 40.) On May 3, 2023, Defendant www.bigfootsquishmallow.com filed an answer to the Complaint and a motion to set aside the Certificates of Default. ECF Nos. 43-44. Plaintiff does not oppose Defendant's motion to set aside default.

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DISCUSSION

“The court may set aside an entry of default for good cause” Fed. R. Civ. P. 55(c). To determine whether “good cause” exists, “a district court must consider three factors: (1) whether the default was willful; (2) whether setting the default aside would prejudice the adversary; and (3) whether a meritorious defense is presented.” *Swarna v. Al-Awadi*, 622 F.3d 123, 142 (2d Cir. 2010). “It is well established that default judgments are disfavored. A clear preference exists for cases to be adjudicated on the merits.” *Pecarsky v. Galaxiworld.com Ltd.*, 249 F.3d 167, 174 (2d Cir. 2001). “Because there is a preference for resolving disputes on the merits, doubts should be resolved in favor of the defaulting party.” *Powerserve Int’l, Inc. v. Lavi*, 239 F.3d 508, 514 (2d Cir. 2001) (quotation marks omitted). Indeed, “[m]otions to set aside default judgments should be granted liberally.” *Crawford v. Nails on 7th By Jenny Inc.*, 18-CV-9849, 2020 WL 564059, at *2 (S.D.N.Y. Feb. 5, 2020).

The Court sets aside the Clerk’s Certificates of Default as to www.bigsquishmallow.com at ECF No. 40.

SO ORDERED.

Dated: 5-4-, 2023
New York, New York


ALVIN K. HELLERSTEIN